IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.992/2000

State & Ors. **Versus** Chuttan Lal Pareek

DATE OF ORDER :: 01/10/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. G.S. Gill, AAG, for petitioners
None present for respondent

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Instant petition has been filed assailing the order dated 23rd September, 1999 whereby learned court below while holding petitioner Nos.2 & 3 guilty for not complying the order of this court dated 6th August, 1999, ordered that recorded warning be entered in their service record.

Facts giving rise to the present controversy are that on checking vehicle bearing Registration No.RJ14-P 2090, it was found that vehicle has violated certain provisions of Motor Vehicles Act and so also terms & conditions of Rajasthan Motor Vehicles Taxation Act and thus, in exercise of power u/s.207 of Motor Vehicles Act, 1988, a seizure memo was prepared, which is placed on record as Ann.1. Respondent herein filed an application u/ss.451 & 457 of the Code for release of vehicle on Supurdgi on which challan was filed on 05/08/1999 and learned trial Judge on the said application passed order for release of vehicle on Supurdgi to the respondent on 6th August, 1999. Immediately on 7th August, 1999, application was filed by Regional Transport Officer, Jaipur for clarification saying inter

alia that the tax is due over the said vehicle and in the absence of same being paid, still vehicle has to be released or not. Learned trial Judge issued notice to them and called for explanation on 9th August, 1999, without raising grievance any further, on 9th August, 1999 itself vehicle was released. It appears that contempt application was filed by respondent in not releasing the vehicle despite order of court dated 6th August, 1999. Learned trial Judge issued notices to petitioner Nos.2 & 3 and taking their explanation, recorded finding that case for disobedience of the order is made out and passed order that recorded warning be recorded in their service record.

Counsel for petitioners submits that their act was not deliberate and infact on 6th August, 1999 order was passed for releasing vehicle on Supurdgi and on 7th August, 1999 itself a clarification was sought that if tax is still due, which is to be recovered still vehicle has to be released. As such, immediately when notice was issued without taking note of their explanation, which was furnished immediately vehicle was released by petitioner Nos.2 & 3 as such it cannot be said to be a deliberate disobedience on their part.

No one appeared on behalf of respondent despite service.

I have heard counsel for petitioners and perused the order impugned.

It appears that court was of the prima facie view that once there was an order to release the vehicle on Supurdgi, still holding the same for 2-3 days, could not be said to be a justified action on the part of petitioner Nos.2 & 3. But, this fact has not been properly looked into that immediately on 7th August, 1999 application was filed seeking clarification and without any further delay on 9th August, 1999 vehicle was released.

This Court after going through the material on record, does not find the act of petitioner Nos.2 & 3 in any manner which can be said to be deliberate in disobeying the order of the court dated 6th August, 1999 and in such circumstances, the very finding recorded in the facts of instant case is not sustainable and accordingly, the order impugned deserves to be set aside.

Consequently, the misc. petition stands allowed and the order impugned dated 23rd September, 1999 is hereby quashed and set aside.

[AJAY RASTOGI],J.